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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,076	05/19/2000	David B. Kinder	INTL-0367-US(P8586)	1607

21906 7590 01/11/2007
TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/575,076

Applicant(s)

KINDER ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11 and 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11, and 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Reopen Prosecution

1. In view of the appeal brief filed on 10/27/06, PROSECUTION IS HEREBY REOPENED.

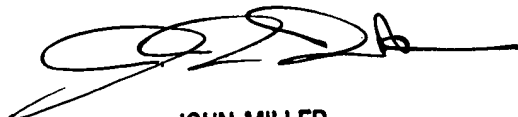
A new ground rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 3-11 and 14-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 partly recites "...transmitting video information in the form of television programming to a plurality of receivers and said web site hosting facility. Similarly, claim 11 partly recites "transmit television programming including said video information to a plurality of receivers, one receiver including the web site hosting facility", and claim 21 partly recites "...to transport said video containing said uniform resource locator to said web site hosting facility and said receivers". However, these features are not fully supported by the original specification.

The most relevant portion of the specification describes "*Thus, the web hosting facility may receive the television programming information. This information may be of use to the web hosting facility as a last warning that ancillary data, including a URL, has been broadcast to a large number of receivers. This may also warn the facility 26 that a large number of attempted accesses to a URL, hosted by the facility 26, may be imminent.*" (Specification: p. 4, line 21 to p. 5, line 2). Alternatively, the specification describes "*Thus, the control code 12 may include information about the URL, the channel on which it is being broadcast, the time or times when it is broadcast and the geographical area to which it is being broadcast.*" and "*The control code 12 may be sent out for parsing by the web hosting facility 26 that may receive it through the transport medium 18.*" (Specification: p. 5, lines 6-9 and 15-17). From this view, **television programming information** and/or **information** from the control code 12 is a warning or message to the web hosting facility about broadcasting URLs to receivers and/or a warning to

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the web hosting facility about a number of accesses to a web site corresponding to a URL. That is, the **television programming information** is merely a warning or message information and, thus, it does not contain video at all. Moreover, the specification does not specifically indicate that the television programming information included video content. Thus, the original specification does not support limitation of transmitting video information in the form of television programming to the web site hosting facility recited in claim 1 and similarly recited in claims 11 and 21. Accordingly, claims 1, 11, and 21 fail to comply with the written description requirement.

4. Claims 1, 3-11 and 14-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As stated above, the television programming information and/or information from the control code 12 is a warning or message to the web hosting facility about broadcasting URLs to receivers and/or a warning to the web hosting facility about a number of accesses to a web site corresponding to a URL. From this warning, the web hosting facility may schedule extra hosting capacity to efficiently handle a number of incoming accesses to a given URL without server failure. (Specification: p. 4, line 21 to p. 5, line 2; p. 6, lines 1-9). Thus, it does not make any sense that transmitting video or transmitting television programming included video information to the **web site hosting facility** is required. Even the specification describes that the transport 18 may also communicate the same programming information and ancillary data to a web hosting facility 16 (see Specification: p. 4, lines 19-21), the specification does not make clear that programming information includes video. Thus, claims 1, 11, and 21 contains subject matter (i.e., transmitting video information in the form of television programming to web site hosting facility, transmitting television programming including video information to a plurality of

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receivers, one receiver including the web site hosting facility, and transporting video containing uniform resource locator to web site hosting facility, respectively) which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Accordingly, claims 1, 11, and 21 fail to comply with the enablement requirement.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NGOC K. VU
PRIMARY EXAMINER
Art Unit 2623

January 8, 2007